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| FACSIMILE TRANSMITTAL FORM | Application Number | 10/762678 |
| | Filing Date | January 20, 2004 |
| | First Named Inventor | Ouderkirk, Andrew J. |
| | Art Unit | 2814 |
| | Examiner Name | Louie, Wal Sing |
| Fax: 703-872-9306 | Attorney Docket Number | 58388US004 |
| Total Number of Pages in This Submission: 4 | | |
| Date: April 18, 2005 | Attorney for Applicant: Stephen C. Jensen | |

| ENCLOSURES (check all that apply) | | |
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Customer Number

Patent
Case No.: 58388US004**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

First Named Inventor: OUDERKIRK, ANDREW J.
Application No.: 10/762678 Group Art Unit: 2814
Filed: January 20, 2004 Examiner: Loule, Wai Sing
Title: PHOSPHOR BASED LIGHT SOURCES HAVING FRONT ILLUMINATION

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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| <p align="center">CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR § 1.8(a)]</p> <p>I hereby certify that this correspondence is being:</p> <p><input type="checkbox"/> deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.</p> <p><input checked="" type="checkbox"/> transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.</p> <p><u>April 18, 2005</u> <u>Andrea Newhouse</u> Date Signed by: Andrea Newhouse</p> |
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Dear Sir:

This is in response to the Office Action dated 03/17/2005. The Office Action set a 1-month shortened statutory period to respond, which period extends to April 17, 2005 (a Sunday).

In the Office Action, pending claims 1-23 were restricted under 35 USC § 121 as follows:

- I. Claims 1-21, said to be "drawn to a light source, classified in class 257, subclass 79";
- II. Claims 22-23 said to be "drawn to a method of illuminating phosphor of the light source, classified in class 438, subclass 24".

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The Office Action also stated:

"Inventions Group I and Group II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product as claimed can be made by another and materially different process, such that instead of emitting light from the LED toward a reflector to produce emitted light, it would be possible to provide a surface emitting LED, which do not require a reflector."

Election With Traverse

In response, Applicants elect Group I, with traverse. Reconsideration and withdrawal of the restriction requirement is respectfully requested.

Election is made with traverse because the Examiner has mischaracterized the invention of at least Group II. For example, the Examiner classifies the invention of claims 22-23 in class 438: "Semiconductor Device Manufacturing Process" (emphasis added). Consistent with this, in the paragraph quoted above, the Examiner characterizes Group II as a process of making a product. However, independent claim 22 recites "[a] method of illuminating phosphor", not a method of making a product. Class 438 is therefore inappropriate as a classification of independent claim 22 and its dependent claim 23, and the Examiner's analysis in the quoted paragraph is erroneous.

The Examiner's analysis is also faulty because it attempts to draw a distinction between "surface emitting LED"s and (presumably) other types of LEDs, but the distinction cannot be clearly understood from the Office Action. Indeed, any distinction between "surface emitting LEDs" and other types of LEDs is irrelevant to the claims at issue.

Applicants further submit that the Group I and Group II claims are sufficiently close in subject matter that a search of one group of claims is likely to reveal art relevant to the other.

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Conclusion

Applicants have elected Group I with traverse. Continued prosecution of this application is respectfully requested.

It is believed that no fee is due, but if this belief is incorrect, please charge any required fee to Deposit Account No. 13-3723. The Examiner is invited to contact the undersigned at the indicated telephone number with questions that can be resolved with a simple teleconference.

Respectfully submitted,

18 April 2005
Date

By: Stephen C. Jensen
Stephen C. Jensen, Reg. No.: 35,207
Telephone No.: (651) 736-3369

Office of Intellectual Property Counsel
3M Innovative Properties Company
Facsimile No.: 651-736-3833